

Internal Revenue Service  
**memorandum**

date: AUG 30 1991

to: Director, Internal Revenue Service Center  
Kansas City, MO  
Attn: Entity Control

from: Technical Assistant  
Employee Benefits and Exempt Organizations

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subject: CC:EE:3 - TR-45-1274-91  
Railroad Retirement Tax Act Status

Attached for your information and appropriate action is a copy of a letter from the Railroad Retirement Board concerning the status under the Railroad Retirement Act and the Railroad Unemployment Tax Act of:

[REDACTED]

We have reviewed the opinion of the Railroad Retirement Board and, based solely upon the information submitted, concur in the conclusion reached by the Board that [REDACTED] is not an employer under the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

(Signed) Ronald L. Moore

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RONALD L. MOORE

Attachment:

Copy of letter from Railroad Retirement Board

cc: Mr. Gary Kuper  
Internal Revenue Service  
200 South Hanley  
Clayton, MO 63105

08614

UNITED STATES OF AMERICA  
RAILROAD RETIREMENT BOARD

844 RUSH STREET  
CHICAGO, ILLINOIS 60611

RECEIVED

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BUREAU OF LAW

OFFICE OF THE ASSISTANT  
ATTORNEY GENERAL  
GENERAL INVESTIGATIVE  
DIVISION AND EXEMPT  
ORGANIZATION DIVISION

JUL 22 1991

Assistant Chief Counsel  
(Employee Benefits and  
Exempt Organizations)  
Internal Revenue Service  
1111 Constitution Avenue., N.W.  
Washington, D.C. 20224

Attention: CC:IND:1:3

Dear Sir:

In accordance with the coordination procedure established between the Internal Revenue Service and this Board, I am enclosing for your information a copy of an opinion in which I have expressed my determination as to the status under the Railroad Retirement and Railroad Unemployment Insurance Acts of the following:

[REDACTED]

Sincerely yours,



Steven A. Bartholow  
Deputy General Counsel

Enclosure

UNITED STATES GOVERNMENT

RAILROAD RETIREMENT BOARD

**MEMORANDUM**

JUL 17 1991

TO: Director of Research and Employment Accounts

FROM: Deputy General Counsel

SUBJECT: [REDACTED]  
Employer Status

This is in response to your request for my opinion regarding the status of [REDACTED] (" [REDACTED] ") as an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

According to a letter dated [REDACTED] from [REDACTED], Counsel for [REDACTED] and its subsidiary, [REDACTED] (" [REDACTED] ") located at [REDACTED], is owned by the United States Government and is under the control of the [REDACTED] headquartered at [REDACTED]. [REDACTED] operates [REDACTED] for the [REDACTED] as operating contractor under government contract [REDACTED].

There are approximately [REDACTED] miles of railroad track located inside [REDACTED] in [REDACTED] different facilities ([REDACTED]). As part of its operating contract with the [REDACTED], [REDACTED] spots rail cars for loading within the plant itself. [REDACTED] employees perform these railroad operations. The cars are transported by the [REDACTED].

From the information provided it is clear that [REDACTED] is not owned or controlled by or under common control with any carrier employer. [REDACTED], then known as [REDACTED], began operations in [REDACTED] and presently has approximately [REDACTED] employees, [REDACTED] of whom conduct the intra-plant rail operations at [REDACTED], which have been ongoing since [REDACTED]. It is also clear that [REDACTED] is not a carrier by railroad subject to Part I of

1/ This statement as to [REDACTED] business is substantiated by the Dictionary of Corporate Affiliations, 1991 ed., and Standard & Poors Register, both of which describe [REDACTED] as being engaged in the production of [REDACTED].

Director of Research and Employment Accounts

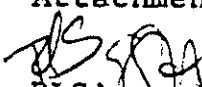
the Interstate Commerce Act. [REDACTED] stated that [REDACTED] does not have an Interstate Commerce Commission exemption to operate as a carrier by rail "since no carrier operations are performed." Its only railroad operations are the spotting services which it performs at [REDACTED] for itself. [REDACTED] does not hold itself out to be a common carrier in interstate commerce. Therefore, it is my opinion that [REDACTED] is not an employer under the Acts administered by the Board.

An appropriate Form G-215 is attached.



Steven A. Bartholow

Attachment



RLSimmons:cmw

03556/C. 2826-90